

MONTANA LEGISLATIVE HISTORY

Chapter 255 19 81

Bill H _____ S 256 Original bill & history ✓ C

H. Committee on Local Government

S. Committee on Local Government

Hearing Date(s) Mar 07 ✓ C

Hearing Date(s) Feb 05 ✓ C

Mar 14 ✓ C

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Date Out Mar 14 ✓ C

Feb 05 ✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

3RD READING: 4/16, YEAS: 44; NAYS: 0
HOUSE

2ND READING: 4/17, YEAS: 86; NAYS: 0

ON MOTION, 4/17, RULES SUSPENDED, PLACED ON 3RD READING

3RD READING: 4/17, YEAS: 92; NAYS: 1

TRANSMITTED TO GOVERNOR: 4/22/81

ACTION: 4/24, SIGNED

CHAPTER 511

SB 254 -- DOVER, ROTH, HAFPERMAN, ET AL -- GRANTING CONSENT FOR THE
INTERBASIN AND INTERSTATE TRANSFER OF CERTAIN WATERS OF THE
YELLOWSTONE RIVER.

INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE: 1/23

HEARING: 2/9

REPORT: 2/17, ADVERSE REPORT ADOPTED -- YEAS: 37; NAYS: 10

-- KILLED

SB 255 -- TURNAGE, GALT, HAMMOND, ET AL -- ELIMINATING CERTAIN TAXES FOR
LINEAL DESCENDANTS.

FISCAL NOTE: REQUIRED

INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION: 1/23

HEARING: 2/5

REPORT: 2/12, DO PASS AS AMENDED

2ND READING: 2/14, DO PASS

3RD READING: 2/17, YEAS: 50

TRANSMITTED TO HOUSE: 2/17

REFERRED TO COMMITTEE ON TAXATION: 2/18

HEARING: 3/17

REPORT: 3/17, BE CONCURRED IN

ON MOTION, 3/19, PASSED FOR THE DAY.

2ND READING: 3/20, AS AMENDED -- YEAS: 79; NAYS: 6

3RD READING: 3/23, YEAS: 93; NAYS: 6

RETURNED TO SENATE WITH AMENDMENTS: 3/23

2ND READING: 3/24, BE CONCURRED IN

3RD READING: 3/25, YEAS: 50

TRANSMITTED TO GOVERNOR: 3/26/81

ACTION: 3/31, SIGNED

CHAPTER 202

SB 256 -- HAMMOND, ETCHART -- AMENDING 7-2-4103 TO CHANGE THE POPULATION
PREREQUISITE FOR MUNICIPAL INCORPORATION.

INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 1/23

HEARING: 2/5

REPORT: 2/7, DO PASS AS AMENDED

2ND READING: 2/11, DO PASS

3RD READING: 2/13, YEAS: 50

TRANSMITTED TO HOUSE: 2/13

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT: 2/14

HEARING: 3/7

REPORT: 3/14, BE CONCURRED IN, AS AMENDED

2ND READING: 3/19, YEAS: 91; NAYS: 1

3RD READING: 3/21, YEAS: 89; NAYS: 2

RETURNED TO SENATE WITH AMENDMENTS: 3/21

2ND READING: 3/24, BE CONCURRED IN

3RD READING: 3/26, YEAS: 46; NAYS: 0

TRANSMITTED TO GOVERNOR: 3/30/81

ACTION: 4/3, SIGNED
CHAPTER 255

SB 257 -- S. BROWN, BLAYLOCK -- AMENDING 2-18-501 TO INCREASE TRAVEL EXPENSES FOR PERSONS IN STATE SERVICE.

FISCAL NOTE: REQUIRED

INTRODUCED AND REFERRED TO COMMITTEE ON STATE
ADMINISTRATION: 1/23

HEARING: 2/2

REPORT: 2/4, DO PASS AS AMENDED

2ND READING: 2/6, YEAS: 29; NAYS: 18

MOTION TO RECOMMIT: 2/7, DO PASS

RE-REFERRED TO COMMITTEE ON FINANCE AND CLAIMS: 2/7

HEARING: 2/12

REPORT: 2/12, DO PASS AS AMENDED

2ND READING: 2/14, YEAS: 28; NAYS: 21

3RD READING: 2/17, YEAS: 27; NAYS: 23

TRANSMITTED TO HOUSE: 2/17

REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 2/18

HEARING: 3/5

REPORT: 3/5, BE CONCURRED IN, AS AMENDED

2ND READING: 3/9, AS AMENDED -- YEAS: 66; NAYS: 13

ON MOTION, 3/11, REREFERRED TO COMMITTEE ON APPROPRIATIONS.

HEARING: 3/27

REPORT: 3/31, BE CONCURRED IN, AS AMENDED

2ND READING: 4/6, YEAS: 73; NAYS: 15

ON MOTION, 4/6, RULES SUSPENDED, PLACED ON 3RD READING.

3RD READING: 4/6, YEAS: 64; NAYS: 30

RETURNED TO SENATE WITH AMENDMENTS: 4/6

2ND READING: 4/11, BE NOT CONCURRED

ON MOTION, 4/13, FREE CONFERENCE COMMITTEE APPOINTED

FREE CONFERENCE COMMITTEE REPORT NO. 1: 4/15

SENATE

2ND READING: 4/20, BE CONCURRED IN

ON MOTION, 4/20, RULES SUSPENDED, PLACED ON 3RD READING

3RD READING: 4/20, YEAS: 39; NAYS: 8

HOUSE

2ND READING: 4/22, YEAS: 71; NAYS: 10

ON MOTION, 4/22, RULES SUSPENDED, PLACED ON 3RD READING

3RD READING: 4/22, YEAS: 81; NAYS: 13

TRANSMITTED TO GOVERNOR: 4/29/81

ACTION: 5/1, SIGNED

CHAPTER 582

SB 258 -- S. BROWN -- TRANSFERRING FORESTRY FUNCTIONS TO DEPARTMENT OF STATE LANDS AND TRANSFERRING MINE SITING AND RECLAMATION TO DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION.

INTRODUCED AND REFERRED TO COMMITTEE ON NATURAL RESOURCES: 1/23

HEARING: 2/11, 12:30 PM

REPORT: 2/21, DO PASS AS AMENDED

2ND READING: 2/24, YEAS: 44; NAYS: 3

SENATE BILL NO. 256

INTRODUCED BY HAMMOND, ETCHART

IN THE SENATE

January 23, 1981	Introduced and referred to Committee on Local Government.
February 7, 1981	Committee recommend bill do pass as amended. Report adopted.
February 9, 1981	Bill printed and placed on members' desks.
February 10, 1981	Second reading, pass consideration.
February 11, 1981	Second reading, do pass.
February 12, 1981	Correctly engrossed.
February 13, 1981	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

February 14, 1981	Introduced and referred to Committee on Local Government.
March 16, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 19, 1981	Second reading, concurred in.
March 21, 1981	Third reading, concurred in as amended. Ayes, 89; Noes, 2.

IN THE SENATE

March 21, 1981	Returned from House with amendments.
March 23, 1981	On motion, consideration be passed for the day.
March 24, 1981	Second reading, amendments concurred in.
March 26, 1981	Third reading, amendments concurred in. Ayes, 46; Noes, 0. Sent to enrolling. Reported correctly enrolled.

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Senate BILL NO. *256*

INTRODUCED BY

Hammond Ethert

A BILL FOR AN ACT ENTITLED: "AN ACT TO REDUCE THE
POPULATION PREREQUISITE FOR MUNICIPAL INCORPORATION;
AMENDING SECTION 7-2-4103, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-2-4103, MCA, is amended to read:

"7-2-4103. Prerequisites to organization of
municipality. No municipal corporation may be formed unless:

(1) the number of inhabitants is ~~300~~ 200 or upwards;
and

(2) the boundary of the proposed territory to be
incorporated is more than 3 miles from the boundary,
measured from the nearest point between the two, of any
presently incorporated city or town or there is presented to
the board appropriate evidence that any presently
incorporated city or town within 3 miles which legally could
annex has refused to annex the proposed territory."

Section 2. Effective date. This act is effective on
passage and approval.

-End-

INTRODUCED BILL
SB 256

MINUTES OF THE MEETING
SENATE LOCAL GOVERNMENT COMMITTEE
February 5, 1981

The meeting of the Local Government Committee was called to order by Chairman George McCallum on the above date in Room 405 at 1:15 p.m.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL NO. 175:

AN ACT TO REVISE THE COST OF COPIES OF
COURT PROCEEDINGS.

Senator Ochsner, District No. 26 and sponsor of the bill, said he was requested by the Montana Court Reporters to introduce this bill. This will change the amount on page 1, line 16 for the fee charged to be 17 cents per folio instead of 7.5 cents.

Bob Nieboer, court reporter from Kalispell, said recently the Supreme Court issued an order which is going to reduce the number of copies of transcripts on appeal that go to the Supreme Court from 6 to 3 copies so reporters will get less money. They are presently receiving 7.5 cents, they will need an increase of at least 12 cents to stay at par with what they are making now. The additional 5 cents is for additional costs in preparing transcripts. The committee is still considering Senate Bill No. 84 which will raise the court reporters salaries. They are two separate and distinct bills. This bill, hopefully will give them an income for work they do on weekends and evenings. Most of the income from transcripts on appeal is absorbed by their expenses. They get \$1.50 per page and expenses run about \$1.00 so they come out with about \$.50 per page. If they went to 17 cents per folio they would average \$2.125 per page. The average in surrounding states is \$2.50 so they would still be below average with this increase. It is not a cost to the county and state but to the appellant. There is great pressure in their job and the workload becomes heavier each year. He hopes the committee will not punish them on one bill because of the other. This is a very specialized field and the training is rough. They should be compensated for additional training required in this position. He hopes the committee gives favorable consideration of this bill.

Jim Hathaway, court reporter from Miles City, wanted to add that some court reporters in larger districts are busier and have more appeals than some smaller districts that may have only one or no appeals per year. He asks support of this bill.

There were no further proponents. Senator McCallum then called for opponents of the bill.

CONSIDERATION OF SENATE BILL NO. 256:

AN ACT TO REDUCE THE POPULATION PREREQUISITE
FOR MUNICIPAL INCORPORATION.

Senator Hammond, District 3 and sponsor of the bill, said this is a bill to take care of a special situation occurring in Valley County, the town of Fort Peck which is government owned. The town is managed by the Corp of Engineers. The government has given notice they are going to sell Fort Peck. By law they cannot organize a municipality because they have fewer than 300 people, they would like to change this to 200. He would like an amendment added that would lower the number of registered electors required in each ward. (See attached Exhibit A.) He feels if these people are trying to help themselves, we should try to help them. It is not costing anyone anything.

There were no proponents or opponents appearing before the committee. Senator McCallum then asked for questions from the committee.

Senator Ocshner asked if there were 200 people in Fort Peck.

Senator Hammond said the U. S. Census shows there are 260, but the population is declining.

Senator Hammond moved the amendments DO PASS. This motion passed unanimously. He then moved Senate Bill No. 256 DO PASS as amended. This motion also passed unanimously.

Senator McCallum then turned the hearing over to Vice-Chairman O'Hara as Senator McCallum was the sponsor of the next two bills.

CONSIDERATION OF SENATE BILL NO. 302:

AN ACT TO ALLOW COUNTY ATTORNEYS AND DEPUTY
COUNTY ATTORNEYS TIME TO COMPLETE LEGAL MATTERS
REMAINING FROM PREVIOUS PRIVATE PRACTICE OF LAW.

Senator McCallum, District No. 12 and sponsor of the bill, said in his county the elected county attorney resigned. They had to hire a lawyer to come in as county attorney. The attorney, who had run for election and was defeated, did not want the job on a part-time basis. The county hired him as full-time. The attorney had to drop his practice. This bill would give a grace period for him to finish up his private business.

Doris Shepherd of the Montana Association of Counties wanted to support this bill as this problem occurs in other counties. They generally do it but would like it to be legal.

There were no opponents appearing before the committee. Senator O'Hara then called for questions from the committee.

Senate Bill No. 256

INTRODUCED BY HAMMOND ETCHART

AMENDMENTS

- . Title, line 6
Following: "AMENDING"
Strike: "SECTION ~~7-2-4103~~"
Insert: "SECTIONS 7-2-4101 ~~AND 7-2-4103~~"
2. Page 1
Following: line 9
Insert: "Section 1. Section 7-2-4101, MCA, is amended to read:
"7-2-4101. Petition to organize municipalities. (1) Whenever the inhabitants of any part of a county desire to be organized into a city or town, they may apply by petition in writing, signed by not less than two-thirds of the registered electors but not more than 300 such electors, who are residents of the state and residing within the limits of the proposed incorporation, to the board of county commissioners of the county in which the territory is situated.
(2) (a) The petition must describe the limits of the proposed city or town and of the several wards thereof, each of which shall contain ~~150~~ **50** or more registered electors and must not exceed 1 square mile for each 500 inhabitants resident therein.
(b) The petitioners must annex to the petition a map of the proposed territory to be incorporated and state the name of the city or town.
(3) The petition and map must be filed in the office of the election administrator."
Renumber: all subsequent sections

STANDING COMMITTEE REPORT

February 5 1981

MR. **PRESIDENT**

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **SENATE** Bill No. **256**

Respectfully report as follows: That **SENATE** Bill No. **256**
be amended as follows:

1. Title, line 6.

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS 7-2-4101 AND"

2. Page 1

Following: line 9

Insert: "Section 1. Section 7-2-4101, MCA, is amended to read:

"7-2-4101. Petition to organize municipalities. (1) Whenever the inhabitants of any part of a county desire to be organized into a city or town, they may apply by petition in writing, signed by not less than two-thirds of the registered electors but not more than 300 such electors, who are residents of the state and residing within the limits of the proposed incorporation, to the board of county commission of the county in which the territory is situated.

(2) (a) The petition must describe the limits of the proposed city or town and of the several wards thereof, each of which shall contain

DO PASS

(cont'd

February 5

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153 50 or more registered electors and must not exceed 1 square mile for each 500 inhabitants resident therein.

(b) The petitioners must annex to the petition a map of the proposed territory to be incorporated and state the name of the city or town.

(3) The petition and map must be filed in the office of the election administrator."

Renumber: all subsequent sections

And, as so amended,

DO PASS

H.C.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Date 2/5/81 Senate Bill No. 256 Time 1:15

NAME	YES	NO
Senator George McCallum	✓	
Senator Jesse O'Hara	✓	
Senator H. W. Hammond	✓	
Senator J. Donald Ochsner	✓	
Senator Bill Thomas	✓	
Senator Max Conover	✓	
Senator Fred Van Valkenburg	✓	

Gail Stockwell
Secretary, Gail Stockwell

George McCallum
Chairman, GEORGE MCCALLUM

Motion: Senator Hammond motioned SB 256 DO PASS
as amended.

(include enough information on motion—put with yellow copy of committee report.)

MINUTES OF THE MEETING OF LOCAL GOVERNMENT COMMITTEE
March 7, 1981 -- 7:00 A.M.

The Local Government Committee met Saturday, March 7, 1981 in room 103 of the Capitol. CHAIRMAN BERTELSEN called the meeting to order and had the secretary call the roll. All members were present except REPRESENTATIVES AZZARA, HANNAH and HOLIDAY who were absent. REP. HURWITZ and WALDRON were excused. Staff Researcher LEE HEIMAN attended too.

SENATE BILL 256. Sponsored by H.W. HAMMOND

SENATOR HAMMOND from District 3 said he has a bill dealing with incorporation of a small town. The bill is being carried strictly for the benefit of Fort Peck. There are three federal towns that are going to be sold this spring, as the federal government wants to get out from under them. One is in North Dakota, one in South Dakota and Fort Peck in Montana. These towns do not have the 300 people to make it possible for them to incorporate. If they can form a legal entity, the federal government will turn the water and sewer systems, the parks and some of the city buildings over to them. The housing will be sold to the people who live in them with a preference and others will be sold at auction. Because they didn't have the 300 people, I introduced this bill lowering the figure to 200 in the city or town and 50 in each ward. I understand that there is some opposition to this bill but I hope it can be amended so these people can be given the opportunity to help themselves. I don't think there are proponents but I know there is an opponent.

CHAIRMAN BERTELSEN asked if there were any proponents and there were none. He then asked for opponents.

OPPONENTS TO SENATE BILL 256.

DAN MIZNER, Secretary of the Montana League of Cities and Towns, said he is in an awkward position. Cities are our business and incorporated cities should be. But I have to honestly appear before this committee to tell you about some problems. I've had several telephone calls relative to the area of a religious cult that is organized in an area and wants to incorporate. The cities and counties have called it to my attention and said if we pass this bill that type of thing can happen. That was one of the reasons the number of people necessary was raised a few years ago.

I have worked with the Fort Peck people and the engineers for the last few years. We should try to make some arrangement for those people to incorporate. They have used our office and we've been supplying them with information relative to incorporation.

I am not appearing here to try and kill the bill, but to point out to the committee that I've had some calls about it and to

relay them to you. I agree with the chief sponsor of the bill that perhaps we could amend the bill to take care of this and answer some of the problems that may be created. One of the things the committee has to take a look at is "What is a viable city?" Right now I have cities that are down to 46 population. At one time these cities had a population of from 800 to 1,000. Due to circumstances and economic conditions they have deteriorated down to that size town. They are really not a viable city. When you think about all the bills that go through this committee and all of the things that we argue about in behalf of trying to get the laws changed, and when you look at the impositions put on the people, a lot of them who say they want to get into incorporation don't realize what that means. When you once put that line around an area and say "now we are a city", all of these things which we've talked to the committee about fall upon their shoulders. After they get to be a city the telephone rings and they say "Why don't you get that law changed?" In some cases the number should be anywhere from 200, 500, 800 or 1,000 people before a town would have a tax base and be able to handle the things that are imposed upon incorporated cities and towns. They have to look at these things down the line.

Mr. Chairman, I did take up a lot of your time, but I did report on behalf of the people who called. I know something of their problems. I do hope we can work out something so that the federally owned ground being transferred could be incorporated under certain conditions, and if it is otherwise, it could be incorporated under other conditions.

CHAIRMAN BERTELSEN asked if there were further opponents. As there were none, the chairman asked SENATOR HAMMOND to close.

SENATOR HAMMOND said he closed, but would be happy to try and answer any questions from the committee.

QUESTIONS FROM COMMITTEE MEMBERS:

REP. SALES wondered if we had time to discuss other possibilities of how this situation might be handled?

SENATOR HAMMOND said that he did consider at one time setting this up so it could be done by application to the county commissioners, but he doesn't know if that would help the situation.

REP. SALES wondered if perhaps we could hold off on this for a week or two. This would give SENATOR HAMMOND a chance to look into it further. If he still feels this is the only route to go, perhaps the committee could then try to help you.

SENATOR HAMMOND said he's happy to do anything which will help the Fort Peck people.

REP. PISTORIA said he doesn't think the League of Cities and Towns should run the people of Montana. I think they should have their own choice. I want to do everything I can to help the situation.

REP. GOULD asked Senator Hammond if we could set an effective date in the bill and have it expire a few days later?

SENATOR HAMMOND commented that when dealing with the federal government, this might be hard to do.

REP. GOULD said any possibilities we could come up with might be worthwhile.

REP. SWITZER asked SENATOR HAMMOND if there is any alternative? Does the government have any other alternative or will they just let the town fall to pieces?

SENATOR HAMMOND said he doesn't know that. They couldn't explain it to me either. They were told that if there was a legal entity they would be glad to turn the town over to them. I've been working with the Corps of Engineers and they were the ones who discussed it. I think if there was some other alternative, they would have presented it to me.

REP. SWITZER said we've passed new regulations to make everything from garden patches to major cities. I wonder if one of the municipal districts such as a sewer district or water district could be of sufficient legal standing to go through them?

SENATOR HAMMOND said he discussed the possibilities with Dave Wanzenreid from the Department of Community Affairs. He suggested something like this at one time but then decided it wouldn't be satisfactory.

REP. DUSSAULT asked Senator Hammond what the federal government is considering turning over to somebody as she arrived late?

SENATOR HAMMOND said they will turn over the entire area which encompasses the town of Fort Peck. It includes two parks, the water and sewer system. The only thing they will retain will be the building where the Corps of Engineers offices are. The school goes to the district. There is a hotel that will be sold. The post office will be sold to someone or released back to the postal system.

REP. DUSSAULT wondered if the county was not an appropriate body to control the town?

SENATOR HAMMOND said he doesn't think the government wants to go that way. It does have some possibilities for growth if the people are active enough because it is right on the edge of Fort Peck Lake. Perhaps some private enterprise could cause the town to grow

REP. VINGER said they must be close to 300 as there are 96 or 98 homes.

SENATOR HAMMOND said the closest they have come is 265 but because some of the services are closing, they are afraid they'd be down to 200 by the time the transaction could take place.

REP. VINGER said he is somewhat familiar with Fort Peck too. The government is going to sell the houses back to the people that live there who have been permanent employees all of their lives. They have been permanently employed by either the Corps of Engineers, the Power Plant or the dam project. They will sell the houses to the individuals. They will set a value on the houses, subtract out the rent that they have paid as equity and the people will end up paying the difference. The government is upgrading the whole thing; the sewer and water system, the natural gas system which was government owned was full of leaks. The natural gas system is being upgraded and it too will be turned over to the people. The Federal Government would like to have the people incorporate their own town and make a little city out of it. It is a very nice little town; a beautiful location, a beautiful sight and a beautiful recreation area, so the people are quite proud of it.

REP. SWITZER asked MR. MIZNER if he'd expand a little on some of the threats that are posed by requiring incorporation by the people?

MR. MIZNER said one specific thing is a religious sect that is gather out of Stevensville. The people in the area are concerned that if to small a figure is required to incorporate, that type of an operation could incorporate within their area as he's had two or three calls about it. He'd like to suggest that we get this bill passed, get Fort Peck incorporated and in two years can come back and raise the figure again.

REP. SWITZER wondered if a large trailer park could incorporate if they were outside of the city limits already?

MR. MIZNER said the law says if you have x number of people who are registered voters and a given amount of ground that they can petition to be incorporated. The petition signed by so many people comes before the Board of County Commissioners. The county commissioners set up a requirement for a census to determine positively that there are the required number of registered voters in the given area. They set up an election either for or against incorporation. The people vote and if they vote them down, they do not incorporate. If they vote in, then they set up an election by the county commissioners to hold one more election to elect the first officers. Those officers are then elective and the city is off and running. Colstrip had this on the ballot two months ago and the people turned it down. Absarokee just had an election and they turned down incorporation. Lincoln went through a process of turning down incorporation. They have now formed a sewer and water district and are operating. They passed a bond issue for sewer and water only.

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REP. PISTORIA asked if anyone from Fort Peck is against this?

SENATOR HAMMOND replied "no".

DAN MIZNER said the League has been working with the people of Fort Peck and the Corps of Engineers out of Omaha for the last two years putting together information so they might have the opportunity of incorporating. The people in Fort Peck are interested in incorporating, and if the process can be put on the books, it is their decision to do so.

REP. GOULD asked MR. MIZNER if an election is held just for the area that is being incorporated when the county commissioners set up an election for incorporation?

MR. MIZNER said yes. After the lines are drawn to identify the boundaries of the city, they identify the voters within that boundary and they register for that special election. They are the only ones who can vote. There is another part of the law that says they cannot incorporate if they are within three miles of an incorporated city unless they get consent from that city that they will not annex.

REP. VINGER asked MR. MIZNER if they don't have to meet a lot of obligations? Don't they need city water, a sewer system and a garbage system before they can incorporate?

MR. MIZNER said no. These things come after you incorporate. You can create a water or sewer district without incorporation. But if you incorporate, the law does not specifically say you must have a sewer or water system.

CHAIRMAN BERTELSEN asked if there were further questions. As there were none, he closed the hearing on SENATE BILL 256.

SENATE BILL 236 - Sponsored by SENATOR MAX CONOVER

SENATOR CONOVER introduced the bill. This is a bill to clarify the laws that relate to the forming of joint city-county planning boards, as well as consolidated planning boards. It authorizes any governing body which has the power to form such a board to do so. He explained the bill, stating it would save both the city and county a lot of money. Senator Conover submitted his written testimony which is attached to and made a part of these minutes. He said he hoped the committee would concur in Senate Bill 236.

PROPOSERS FOR SENATE BILL 236

AL THELEN, CITY ADMINISTRATOR OF BILLINGS, said they support Senate Bill 236 and said Billings asked SENATOR CONOVER to submit it to the legislature because of a problem they had last year. We tried to solve it through an interlocal agreement and change some existing things in our joint city-county planning operation. We patterned an interlocal agreement similar to one

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE
March 14, 1981

The Local Government Committee met Saturday, March 14, at 7:00 a.m. in Room 103 of the Capitol. The chairman called the meeting to order and asked the secretary to call the roll. All committee members were present with the exception of Rep. Vinger who was excused and Reps. Hurwitz, Hannah, Sales and Waldron, who were absent. Staff Researcher, Lee Heiman, also attended the meeting.

CHAIRMAN BERTELSEN introduced Senator Bob Brown, sponsor of SENATE BILL 84.

SENATOR BROWN said this is an act to increase the salary of District Court reporters. You can see on line 13, page 1, that as introduced, the bill was to increase the lower base salary from \$12,500 to \$16,000, but it was changed from the proposed \$16,000 to a lower base of \$14,000 but no more than \$20,000. The bill was amended down but the salary still went up. There are several court reporters here this morning. They hold a responsible job in our society and will present their testimony. Jim Hathaway from Miles City will explain their duties and reasons why this bill should receive our consideration.

JIM HATHAWAY said he is the court reporter in Miles City. I work for Judge Martin and I'm here in support of SB 84. I would like to give you a summary of court reporters. There are approximately 32 court reporters in the state of Montana. We are paid by the counties that we serve. I work for the 16th District which comprises 7 counties, and I'm paid by the 7 counties in proportion to the cases filed the previous year. Currently, court reporters are paid a minimum of \$12,500 and a maximum of \$18,000. That figure is set by the judge you work for. Mr. Hathaway gave a history of the salaries of court reporters. The 1975 legislature raised the court reporter's salary to a maximum of \$16,000. In the 1977 session the court reporters wanted to introduce a bill to increase their salary to offset inflation. At that time we were informed by the Supreme Court that the court reporters would be taken out of the legislature and put under the Supreme Court. The judges would then fix our salary. This did not happen, so we received no salary increase at all. In 1979 the court reporters introduced a bill in the House which carried quite well, which was what you might call a catch-up bill. The bill was to bring our salary up to what would be a competitive salary with other states. The bill was introduced at \$25,000. It passed the House and went over to the Senate. They amended it to the \$18,000 maximum, which we are currently paid. Therefore, you'll see that since 1975

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vote against the amendment. Motion failed and the amendment did not pass for Senate Bill 328.

REP. MCBRIDE asked if there had ever been occasions when someone had to be out of town and the council refused to give permission, so by having to be gone more than 10 days, he essentially is in violation. Has anyone lost an office in such a case?

CHAIRMAN BERTELSEN replied that in a great number of cases the law is simply ignored. I would imagine that a large number of city council members would pay no attention to it. Perhaps where no problem arises and no one contests it, there is no question. But there would be a question if they couldn't get permission or they did it without consent. It is in the law and could be used.

REP. KITSELMAN said Jan Eschler, a Billings JP, took a trip to Australia last year and a big issue was made of it because she was gone three weeks, without written permission, and theoretically that vacated the office. There was considerable flack raised. She is still in office but that gray area needs to be addressed. With today's trend of 3 weeks for vacation rather than two weeks, this needs to be addressed.

CHAIRMAN BERTELSEN asked if the group was ready for the question.

QUESTION ON SENATE BILL 328 for DO CONCUR. All in favor say aye. Of the 12 committee members present, 10 voted aye and 2 voted no. Those voting no were Reps. Gould and Kitselman. Motion carried and SENATE BILL 328 received a DO CONCUR recommendation.

SENATE BILL 368

CHAIRMAN BERTELSEN said this is the bill requiring certification by the county treasurer that there are no delinquent taxes outstanding on property proposed to be subdivided.

REP. MATSO moved that SENATE BILL 368 BE CONCURRED IN.

QUESTION: The chairman said all in favor of SB 368 say aye. All voted aye and the motion carried. SENATE BILL 368 received a BE CONCURRED IN recommendation.

SENATE BILL 256

CHAIRMAN BERTELSEN said this is the bill which will give Fort Peck the opportunity to deal with the federal government as a city or incorporated town.

vote against the amendment. Motion failed and the amendment did not pass for Senate Bill 328.

REP. MCBRIDE asked if there had ever been occasions when someone had to be out of town and the council refused to give permission, so by having to be gone more than 10 days, he essentially is in violation. Has anyone lost an office in such a case?

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QUESTION: The chairman said all in favor of SB 368 say aye. All voted aye and the motion carried. SENATE BILL 368 received a BE CONCURRED IN recommendation.

SENATE BILL 256

CHAIRMAN BERTELSEN said this is the bill which will give Fort Peck the opportunity to deal with the federal government as a city or incorporated town.

REP. SWITZER moved that we DO CONCUR IN SENATE BILL 256.

CHAIRMAN BERTELSEN said the problem we were faced with was that many of the people felt in discussing the bill and reducing the numbers on the bill and making them applicable to all communities created some problem in establishing unnecessary and uneconomical units in the state. We asked our council to come up with some amendments which would simply make this piece of legislation apply in this particular case.

LEE HEIMAN went over the following amendments for the benefit of the committee:

1. Title, line 4.

Following: "ACT TO"

Strike: "REDUCE"

Insert: "CHANGE"

2. Page 2, line 8.

Following: "(1)"

Insert: "(a)"

Following: "300"

Strike: "200"

Insert: "300"

Following: "upwards;"

Insert: "or"

3. Page 2.

Following: line 8

Insert: "(b) the community was a townsite owned and built by the U.S. Government prior to [the effective date of this act];"

REP. KITSELMAN moved that on page 1, line 22, we strike "50" and return it to "150."

MR. HEIMAN suggested striking section 1 of the bill.

REP. DUSSAULT wondered if there was any other method besides petition because on line 13, there is permissive language of "may apply."

MR. HEIMAN said "no," that this is archaic as it is.

CHAIRMAN BERTELSEN asked that we clarify what we are going to amend.

REP. DUSSAULT said it is quite easy as we are back to the original amendments.

QUESTION ON AMENDMENTS TO SENATE BILL 256: All in favor of the original amendments reply "aye." All voted in favor of the amendments and motion carried by unanimous vote.

21

REP. KITSELMAN moved that SENATE BILL 256 BE CONCURRED IN AS AMENDED. The Chairman asked that all in favor say "aye." The 12 members present voted as follows: 11 voted "aye," 1 abstained. One voted "aye" by proxy. Motion carried and SENATE BILL 256 received a BE CONCURRED IN AS AMENDED recommendation.

SENATE BILL 353 came up for consideration. However, REP. KITSELMAN said he has a problem on it from people in his community. He hasn't heard from them yet and said he told them it would be considered on Tuesday. No action taken.

REP. BERTELSEN asked that committee members take a close look at several of the other bills before the next meeting, namely 133 and 399. There are several suggested amendments and we have a good many letters from people expressing views, copies of which are filed behind the bills.

The meeting adjourned at 9:30 a.m.

Verner L. Bertelsen
VERNER L. BERTELSEN, Chairman

hbm

House

Local Government Committee
March 14, 1981
Amend Senate Bill 256,

1. Title, line 4.

Following: "ACT TO"

Strike: "REDUCE"

Insert: "CHANGE"

2. Page 2, line 8.

Following: "(1)"

Insert: "(a)"

Following: "300"

Strike: "200"

Insert: "300"

Following: "upwards;"

Insert: "or"

3. Page 2.

Following: line 8

Insert: "(b) the community was a townsite owned and built by the
U.S. Government prior to [the effective date of this act];"

STANDING COMMITTEE REPORT

March 14, 1981

MR. SPRAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration SENATE Bill No. 256

A BILL FOR AN ACT ENTITLED: "AN ACT TO REDUCE THE
POPULATION PREREQUISITE FOR MUNICIPAL INCORPORATION;
AMENDING SECTION 7-2-4103, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE."

Respectfully report as follows: That SENATE Bill No. 256

Amend Senate Bill 256, 3rd reading (blue) copy, as follows:

1. Title, line 4.
Following: "ACT TO"
Strike: "REDUCE"
Insert: "CHANGE"

2. Page 2, line 3.
Following: "(1)"
Insert: "(a)"
Following: "300"
Strike: "200"
Insert: "300"
Following: "upwards,"
Insert: "or"

3. Page 2,
Following: line 3
Insert: "(b) the community was a townsite owned and built by the
U.S. Government prior to [the effective date of this act]."

AS AMENDED BE CONCURRED IN

Verner L. Bertelsen Chairman.

1 SENATE BILL NO. 256

2 INTRODUCED BY HAMMOND, ETCHART

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE CHANGE THE
5 POPULATION PREREQUISITE FOR MUNICIPAL INCORPORATION;
6 AMENDING ~~SECTION~~ SECTIONS 7-2-4101 AND 7-2-4103, MCA; AND
7 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:10 SECTION 1. SECTION 7-2-4101, MCA, IS AMENDED TO READ:

11 "7-2-4101. Petition to organize municipalities. (1)
12 Whenever the inhabitants of any part of a county desire to
13 be organized into a city or town, they may apply by petition
14 in writing, signed by not less than two-thirds of the
15 registered electors but not more than 300 such electors, who
16 are residents of the state and residing within the limits of
17 the proposed incorporation, to the board of county
18 commissioners of the county in which the territory is
19 situated.

20 (2) (a) The petition must describe the limits of the
21 proposed city or town and of the several wards thereof, each
22 of which shall contain 150 50 or more registered electors
23 and must not exceed 1 square mile for each 500 inhabitants
24 resident therein.

25 (b) The petitioners must annex to the petition a map

1 of the proposed territory to be incorporated and state the
2 name of the city or town.

3 (3) The petition and map must be filed in the office
4 of the election administrator."

5 Section 2. Section 7-2-4103, MCA, is amended to read:

6 "7-2-4103. Prerequisites to organization of
7 municipality. No municipal corporation may be formed unless:

8 (1) ~~(A)~~ the number of inhabitants is ~~300 200~~ 300 or
9 upwards; OR

10 (B) THE COMMUNITY WAS A TOWNSITE OWNED AND BUILT BY
11 THE U.S. GOVERNMENT PRIOR TO [THE EFFECTIVE DATE OF THIS
12 ACT]; and

13 (2) the boundary of the proposed territory to be
14 incorporated is more than 3 miles from the boundary,
15 measured from the nearest point between the two, of any
16 presently incorporated city or town or there is presented to
17 the board appropriate evidence that any presently
18 incorporated city or town within 3 miles which legally could
19 annex has refused to annex the proposed territory."

20 Section 3. Effective date. This act is effective on
21 passage and approval.

-End-